

CUSTODY DIVERSION PROTOCOL/VOLUNTARY PLACEMENT AGREEMENT

Custody Diversion Protocol: The impetus for the Custody Diversion Protocol was the recognition that the Children's Division had, under certain circumstances, been awarded custody of children *solely* so they might access mental health services. Generally, these are out-of-home services that are not available through Medicaid or the parent's own insurance.

In the summer of 2003, staff from the Children's Division (CD), the Department of Mental Health (DMH), the Juvenile Court, Citizen's for Missouri's Children (CMC), and parents drafted the Custody Diversion Protocol. The foundation for a consistent, successful application of the Custody Diversion Protocol rests on the strength of local interagency collaboration and service integration through the combined efforts of the Children's Division, the Department of Mental Health representative(s), and the Juvenile Court.

Additional strategies to support the Custody Diversion Protocol include:

- Adequate advanced notice regarding discharge from private psychiatric or residential treatment settings with discharge planning beginning at admission;
- Courts must not be eager to relieve families of custody in order to obtain mental health services;
- Families and public and private agencies must recognize and understand home and community-based alternatives to long term residential treatment;
- Additional respite and emergency placement resources must be developed and sustained;
- Targeted education must be provided to staff within private psychiatric hospitals and licensed residential treatment programs; and
- The review and assessment of youth currently in CD custody now underway (**SB1003 – Children's Mental Health Reform Act**) must be ongoing to ensure that any youth so identified may have his/her mental health needs addressed accordingly, and custody returned to the parent in a timely manner.

Voluntary Placement Agreement: A VPA is a written agreement between the Department of Social Services/ CD and a parent, legal guardian, or custodian of a child seventeen (17) years of age or younger solely in need of mental health treatment. A VPA adds to the Custody Diversion Protocol and allows the parent, legal guardian, or custodian to retain legal custody of their child should an out-of-home placement be needed if the protocol cannot otherwise divert the need for such placement. Like the Custody Diversion Protocol, the VPA was developed to prevent children from entering state custody solely for the purpose of accessing clinically indicated mental health services.

Among the many provisions of House Bill 1453, the VPA was introduced in statute (Section 210.108 RSMo.). Through a VPA, legal custody of a child is retained by the parent(s) while out-of-home treatment and care is funded through the state.

Significant aspects of a VPA include:

- The DSS/CD has entered into a cooperative interagency agreement with the DMH authorizing the DMH to administer the placement and care of a child under a VPA;
- Although, information relating to a VPA will be entered into the Alternative Care Tracking System (ACTS), via the SS-61, the Children's Division will have limited involvement in the day-to-day management of the case. The responsibility will be assigned to the Department of Mental Health.
- Any function delegated from the DSS/CD to the DMH regarding the placement and care of children shall be under the oversight of the DSS/CD to ensure compliance with Federal and State law;
- A VPA may not exceed 180 days in duration;
- A VPA may extend beyond the youth's eighteenth birthday, if entered into prior to age eighteen.
- A VPA establishes Title IV-E and Medicaid eligibility for the identified child;
- A VPA allows the CD to draw down federal Title IV-E funding for the youth's placement while the VPA is in effect;
- A VPA will only be made available to a parent in conjunction with and only after staff have utilized the Custody Diversion Protocol. The VPA is not available to a parent on a "stand alone" basis;
- The VPA requires the commitment of a parent to be an active participant in his/her child's treatment;
- The Title IV-E plan amendment allowing VPA's was approved by Federal Region VII officials in December of 2004; and
- The State Administrative Rule to utilize VPA's is on file for promulgation effective January 3, 2005, having been submitted in December 2004.

The custody Diversion Protocol and the Voluntary Placement Agreement reflect a committed partnership between CD staff and the Department of Mental Health, their Community Mental Health Centers and Regional Centers. The Diversion Protocol and VPA represent new options for CD staff to assist parents in accessing needed mental health services for their children. They further allow CD staff to be more responsive to children's mental health needs while preserving parents' legal rights and responsibilities by averting otherwise needless transfers of custody.